

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

340482

IN THE MATTER OF THE NELSON  
GALVANIZING SUPERFUND SITE,  
QUEENS COUNTY, NEW YORKJohn T. Sweeney  
Nelson Foundry, Inc.  
Nelson Galvanizing, Inc.,

Respondents.

Proceeding Pursuant to Section 122(h)(1) of the  
Comprehensive Environmental Response,  
Compensation, and Liability Act, 42 U.S.C. § 9622(h)(1)) AGREEMENT FOR RECOVERY  
) OF PAST RESPONSE COSTS) INDEX NUMBER  
) CERCLA-02-2003-2011

## I. JURISDICTION

1. This Agreement is entered into pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of EPA by EPA Delegation No. 14-14-D. In EPA Region II, this authority has been redelegated to the Director of the Emergency and Remedial Response Division by order of the Regional Administrator dated October 29, 1998.

2. This Agreement is made and entered into by EPA and by John T. Sweeney, Nelson Foundry, Inc. and Nelson Galvanizing, Inc., ("Respondents"). Respondents consent to and will not contest EPA's jurisdiction to enter into this Agreement or to implement or enforce its terms.

## II. BACKGROUND

3. This Agreement concerns the Nelson Galvanizing Superfund Site ("Site"), located at 11-02 Broadway, in the Long Island City area of Queens County, New York City, New York. EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to releases or threatened releases of hazardous substances at or from the Site, "removal" activities, as defined in Section 101(23) of CERCLA, 42 U.S.C. § 9601(23), were undertaken at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. EPA initially conducted removal activities at the Site as authorized pursuant to an EPA Action Memorandum dated January 31, 1991 and those removal activities were performed by Respondents pursuant to an

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SYM.	ORC-NYCSUP	ORC-NYCSUP	ORC-DRC	ERRD-RPB	ERRD-RPB	ERRD-RPB	ERRD-SIM	ERRD-DD
NAME	MINTZER	SIMON	SCHAFF	BECHTEL	DALTON	SPRAGUE	BASSO	PAVLON
INIT				<i>EW</i>	<i>DP</i>	<i>SP</i>		
DATE				3/25/03	3/25/03	3/25/03		

## REGION II

ENFORCEMENT CONFIDENTIAL  
ATTORNEY-CLIENT AND WORK  
PRODUCT PRIVILEGES

DATE:

SUBJECT: Request for Signature on CERCLA Section §122(h) Administrative Cost Recovery Agreement for the Nelson Galvanizing Superfund Site, Queens County, New York City, New York

FROM: Paul F. Simon, Chief and Raymond J. Basso  
NY/Caribbean Superfund Branch Strategic Integration Manager  
Office of Regional Counsel Emergency and Remedial Response Division

TO: George Pavlou, Director  
Emergency and Remedial Response Division

The purpose of this memorandum is to request your approval of and signature on a proposed Agreement for Recovery of Past Response Costs Pursuant to CERCLA Section 122(h)(the "Cost Recovery Agreement") relating to the Nelson Galvanizing Superfund Site located at 11-02 Broadway in the Long Island City area of Queens County, New York City, New York ("Site"). The Cost Recovery Agreement requires John T. Sweeney, Nelson Foundry, Inc. and Nelson Galvanizing, Inc. ("Respondents"), jointly and severally, to pay to the EPA Hazardous Substance Superfund \$244,000 in reimbursement of past response costs.

The Site is not listed on the National Priorities List ("NPL"). Site operations conducted from at least 1967 through 1994 resulted in the release at and from the Site of process wastes involved in a metal galvanizing business. Wastes included compounds of zinc as well as spent acids and caustics. EPA performed a removal response action at the Site from September 1999 through the Spring of 2000 and incurred costs, documented through October 21, 2002, of \$293,466.09. The removal action included the stabilization, characterization, sampling and disposal of hazardous substances contained in drums, vats, sumps and soils at the Site.

A previous removal action was conducted at the Site in 1991 under an order on consent with Respondents. That action similarly addressed wastes from the galvanizing business at an estimated cost of approximately \$250,000. Following the completion of that action, business activities were resumed until the facility shut down in 1994.

The Respondents are the only PRPs identified by EPA for the response actions at this facility. Nelson Foundry, Inc. is the record owner of the facility and Nelson Galvanizing, Inc. was the operator of the facility along with John T. Sweeney, an officer, director and stockholder of both corporations and the person in charge of operations conducted at the facility. John T. Sweeney did not agree to perform the current action because he lacked the financial resources to do so at that time. However, Mr. Sweeney's mother died in April 2001 and her estate, which is still in probate, will provide sufficient funds for Mr. Sweeney to settle this claim (while awaiting distribution of estate proceeds, Mr. Sweeney will borrow from his wife the funds needed for this settlement). The corporate PRPs ceased operations and became insolvent after the facility was

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SYM.	ORC-NYCSUP	ORC-NYCSUP	ERRD-RPB	ERRD-RPB	ERRD-RPB	ERRD-SIM
NAME	MINTZER	SIMON	BECHTEL	DALGIA	SPRAGUE	BASSO
INIT			<i>MB</i>	<i>R</i>	<i>SP</i>	
DATE			3/25/03	3/25/03	3/25/02	

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-US ENV PROTECTION AGENCY -

\*\*\*\*\* -RESP AND PREV BR- \*\*\*\*\* 732 321 4425- \*\*\*\*\*

## RESPONSE & PREVENTION BRANCH FAX COVER SHEET

TO: Michael Mintzer

BRANCH/SECTION: \_\_\_\_\_

TELEPHONE/FAX:

FROM: Terry

BRANCH/SECTION: RPB

TELEPHONE/FAX:

Fax: (732) 321-4425

Tel: 321-6654

DATE: 3/25

TIME: \_\_\_\_\_

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(Including cover sheet)



Nelson Galvanizing Concurrence pgs.

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## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1868

## CONFIDENTIAL ENVIRONMENTAL PROTECTION AGENCY COMMUNICATION

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DATE: March 25, 2003

TO: Attention Valerie - for  
Bruce Sprague and  
Jim Daloia and  
Jeff Bechtel

FAX: 732 321-4425

FROM: Michael Mintzer, Assistant Regional Counsel  
EPA, Region II, ORC  
Telephone: (212) 637-3168  
Fax: (212) 637-3115

PAGES: 3 including cover page

## COMMENT:

Re: Nelson Galvanizing Site

I am sending attached to this FAX, the concurrence pages for the Nelson Galvanizing settlement.

As you know, I had sent them before but they apparently got lost somewhere in the system.

Bruce/Jim/Jeff know we have reached a settlement for the Nelson Galvanizing site. Attached to this FAX are the concurrence pages for:

- i) the Memo to the Division Director recommending settlement; and
- ii) the settlement document itself.

On March 17 I sent by e-mail to Bruce, Jim and Jeff the full documents (that is, I e-mailed i) the memo to the Division Director; ii) the settlement agreement; and iii) the "Ten-Point" analysis of the settlement.)

Please FAX the signed concurrence pages as soon as you are able to do so. Call me if you have any questions.